

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

SCOTT NJOS,

Plaintiff,

v.

CARNEY, et al.,

Defendants.

CIVIL NO. 3:12-CV-1375

(Judge Kosik)

FILED
SCRANTON

MAR 11 2014

PER

DEPUTY CLERK

ORDER

AND NOW, this 11th day of March, 2014, IT APPEARING TO THE COURT

THAT:

(1) Plaintiff, Scott Njos, a prisoner confined at the United States Penitentiary-Lewisburg, Pennsylvania, filed the instant civil rights action pursuant to Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971) on July 17, 2012. The basis of Plaintiff's action is the substantial burden that the Defendant Chaplains placed on the exercise of Plaintiff's religious beliefs by denying him access to kosher meals and by providing him inadequate amounts of Sabbath juice and matzo, in violation of the First Amendment and the Religious Freedom Restoration Act ("RFRA");

(2) The action is assigned to Magistrate Judge Karoline Mehalchick for Report and Recommendation;

(3) On February 19, 2014, the Magistrate Judge issued a Report and Recommendation (Doc. 34) wherein she recommended that Defendant's Motion for Summary Judgment (Doc. 21) be denied without prejudice; that Defendants be directed to file an Answer; and that the matter be remanded to the Magistrate Judge for further pretrial proceedings;

(4) Specifically, the Magistrate Judge found that viewing the evidentiary record in light of the factors set forth in Turner v. Safley, 482 U.S. 78 (1987), Defendants were not entitled to summary judgment on Plaintiff's First Amendment claim.

Moreover, the Magistrate Judge found that Defendants failed to satisfy the heightened scrutiny of the RFRA's compelling interest test and that, based on the record before her, Defendants were not entitled to summary judgment on the RFRA claim or to qualified immunity;

(5) Neither party has filed timely objections to the Magistrate Judge's Report and Recommendation;

AND, IT FURTHER APPEARING THAT:

(6) If no objections are filed to a Magistrate Judge's Report and Recommendation, the plaintiff is not statutorily entitled to a de novo review of his claims. 28 U.S.C.A. §636(b)(1)(C); Thomas v. Arn, 474 U.S. 140, 150-53 (1985). Nonetheless, the usual practice of the district court is to give "reasoned consideration" to a magistrate judge's report prior to adopting it. Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987);

(7) We have considered the Magistrate Judge's Report and we concur with her recommendation;

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) The February 19, 2014 Report and Recommendation of Magistrate Judge Karoline Mehalchick (Doc. 34) is **ADOPTED**;

(2) Defendants' Motion for Summary Judgment (Doc. 21) is **DENIED** without prejudice;

(3) Defendants are directed to **FILE** an Answer within fourteen (14) days from the date of this Order; and

(4) The above-captioned case is **REMANDED** to the Magistrate Judge for further proceedings.



Edwin M. Kosik
United States District Judge